

**SANTA FE COUNTY
PROFESSIONAL SERVICES AGREEMENT
WITH RENEWABLE FUNDING, LLC
TO PROVIDE PROGRAM SERVICES
FOR THE COUNTY'S RENEWABLE ENERGY FINANCING DISTRICT**

THIS AGREEMENT is made and entered into this 16th day of March, 2010 by and between Santa Fe County, hereinafter referred to as "the County," and Renewable Funding, LLC, a California LLC with a principal address of 1746 Broadway, Oakland CA 94612, hereinafter referred to as "the Contractor."

WHEREAS, pursuant to NMSA 1978, Section 13-1-112 competitive, sealed proposals were solicited via a formal request for proposals, RFP No. 2010-0156-MG/MS, for the provision of the professional services; and

WHEREAS, based upon the evaluation criteria established within the request for proposals for the purposes of determining the most qualified offeror, the County has determined Contractor as the most responsive and highest rated offeror; and

WHEREAS, pursuant to NMSA 1978, Sections 5-18-1 through 5-18-13 (2009), the County is implementing a Renewable Energy Financing District ("REFD") program ("Program") to facilitate and encourage the deployment of renewable energy technologies on qualified, privately-owned real property within Santa Fe County through implementation of Ordinance No. 2009-12, a copy of which is attached hereto as Exhibit A; and

WHEREAS, the County desires to engage the Contractor to develop and implement the REFD Program in accordance with Ordinance No. 2009-12; and

WHEREAS, for administrative convenience, the County intends to enter two separate agreements pursuant to the procurement: 1) this Agreement pertaining to the Program development and implementation; and 2) an agreement pertaining to the financing of the Program.

WHEREAS, the County requires these services and the Contractor is willing to provide these services and both parties wish to enter into this Agreement.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. SCOPE OF WORK

The Contractor shall:

A. Program Development:

1. Develop guidelines and standards, for approval by the REFD Board, to maximize resources, program participation and efficiency, minimize participant default rates and enhance the marketability of the REFD to potential program

participants, installers and investors. The guidelines and standards will include at a minimum:

- a) Criteria for identifying qualified properties for the Program;
 - b) Criteria for the selection of renewable energy improvements to be made to real property included in the REFD;
 - c) Procedures for a property owner to enter into a written agreement with the District Board setting forth the terms and conditions of a loan to install renewable energy technology;
 - d) Documentation required from a property owner, prior to property being included in the District and prior to the property owner entering into contracts or agreements for purchase and installation of renewable energy improvements;
 - e) Criteria and method for calculation of the assessment and procedure to impose special assessments for the financing of the renewable energy improvements, including the costs of bond issuance, debt service and administrative costs of the District.
2. Submit an analysis of market conditions to include demographics, geographic characteristics, climate, market, economic conditions, trust indentures or other methods to obtain credit enhancement or liquidity, optimization of public subsidy and equity investment, and report how these factors affect the REFD Program and its standards and guidelines;
- a) Develop support programs including methodology and administration, implementation of software programs, applications, models, templates, and reporting mechanisms;
 - b) Develop a plan for a community education and outreach program promoting the REFD Program; and
 - c) Describe in detail how the Program will be designed to minimize County out-of-pocket costs and enable the Program to become self sustaining.

B. Implementation of Turnkey Program and Training

1. Develop implementation procedures, for consideration and possible approval by County, which includes methodology for the development and administration of systems, implementation of software programs, applications, models, templates and reporting mechanisms, that, at a minimum:
 - a) Accurately and reliably assess each REFD Project as to feasibility, loan risk, and repayment projections;
 - b) Monitor ongoing administration of the REFD Program;
 - c) Maintain accurate and timely record keeping;
 - d) Provide for accurate accounting measures; and
 - e) Respond to tax payer questions and comments.
2. Develop a REFD web portal that is linked to the County website that, at a minimum, makes REFD announcements, educates constituents about the Program, answers frequently asked questions and provides for on-line application submittal that can be activated for specific limited application windows. The web portal shall describe timelines for a typical REFD participant that shall include ongoing

administration and timing for any proposed reporting requirements and invoicing procedures.

3. Describe the general process for application to the REFD Program, the form that the loan application will take, and the components that will comprise the application, and finally provide a sample of the application.

4. Train County employees to administer the REFD Program if deemed appropriate and necessary.

C. Program Administration and Support:

1. Identify and describe REFD Program administration components to be handled by the Contractor and/or the County. Describe the relationship with the County (engagement, support, reporting, etc.) including how and over what period of time.

2. Submit administration procedures for approval by REFD including but not limited to: administration of systems, website, software programs, applications, models, templates and reporting mechanisms, the REFD application and loan process, accepting and prescreening application, reviewing applications for legal sufficiency, technical adequacy and implementation appropriateness, ensuring the application complies with all county/local/state/federal/ and REFD regulations and standards, recommending properties for inclusion into the REFD Program to the District Board, and upon property acceptance, executing all contractual matters for the loan, fund dispersal, special assessment on the property and the lien on the property, and finally tracking the impact of technological innovations.

3. Provide written quarterly reports to the REFD that includes at a minimum general industry conditions and recommendations relevant to the REFD and other clean energy opportunities, proposed state or federal legislation and regulations, and/or market conditions that could affect the viability of the REFD program and the risks/reward structure of other clean energy opportunities.

4. Provide written quarterly reports, schedules, and documents to support the issuance of Bonds and/or underwriting of Loans. Conduct a market feasibility analysis, cash flow analysis, debt service and loan repayment projections, substantiation of revenue and expenditure estimates and project costs, verification of cash flows, and project or market feasibility;

5. Provide written quarterly reports for the County regarding status of loan repayments detailing renewable energy generated, production of greenhouse gases avoided, types of renewable energy installed, and any other data set required by the County or the REFD Board to verify and support the mission of sustainability and enhanced use of renewable energy technologies.

6. Administer the Program on behalf of the County as defined in the administration procedures, including but not limited to acting as a liaison to participants and stakeholders, conducting marketing and outreach, processing applications, originating loans, and disbursing funds.

The Contractor will administer the Program until the County chooses to self-administer the Program and the Contractor has trained the County staff to

administer the Program. The County will provide the Contractor with written notice if and when this change in program administrative duties will occur.

The Contractor shall prepare all documents using computer technology. All electronic files shall be provided to County. All related REFD Program documentation created for the Program shall be the property of County. Dissemination of any information shall only occur after review and approval by the County.

2. COMPENSATION AND INVOICING

- A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

In no event shall the total compensation paid to Contractor by County under this Agreement exceed \$51,863.00, inclusive of gross receipts tax.

The County shall pay to the Contractor as follows for services performed, *i.e.* deliverables made to the satisfaction of the County:

1. Upon the completion of services described in Section 1.A.1 of this Agreement, the Contractor shall be paid \$28,322.00
2. Upon the completion of services described in Section 1.A.2 of this Agreement, the Contractor shall be paid \$8,673.00
3. Upon the completion of services described in Section 1.B of this Agreement, the Contractor shall be paid \$14,868.00

The County and the Contractor anticipate that Contractor's payment for services rendered pursuant to Section 1.C of this Agreement, Program Administration and Support, will be made as part of the cost of the Program paid by its participants either via application fees, capitalized expenses, and/or an interest rate spread. The payment for these services will be determined by the REFD Board and Board of County Commissioners at a later date and included as an amendment to this Agreement. After satisfactory delivery of the services described in Sections 1.A and 1.B, if the Contractor and the County cannot agree on the compensation for the services in Section 1.C, Contractor has the right to terminate this Agreement on thirty days' notice to the County.

No travel expenses for the Contractor are to be paid pursuant to this Agreement.

- B. The Contractor shall submit a written request for payment to the County at such time that the Contractor produces to the County the deliverable pursuant to the Scope of Work. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of

the contractual items or services for which payment is sought.

The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

- C. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
- D. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

3. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate on December 31, 2013, unless earlier terminated pursuant to Section 4. "TERMINATION," of this Agreement.

4. TERMINATION

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

5. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use the County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so. The Contractor shall not be provided offices at the County. All supplies needed for contractors work are Contractor's responsibility.

6. PERSONNEL

- A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.
- B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of nor have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

8. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

9. INDEMNITY

- A. The Contractor shall defend, indemnify, and hold harmless the County and its Elected Officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and reasonable attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

- B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

10. RECORDS AND INSPECTIONS

- A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").
- B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

11. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient

appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

12. PERMITS, FEES, AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

13. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

14. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval of the County.

15. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; LICENSE

- A. The County has the right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.
- B. To the extent that any deliverable or service provided by Contractor under this Agreement contains any intellectual property, Contractor grants County a perpetual, non-exclusive, royalty-free license to use such intellectual property within the County.

16. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

17. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1, "SCOPE OF WORK", of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

18. ENTIRE AGREEMENT; INTEGRATION

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

19. EQUAL OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

20. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

21. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligation hereunder, the Contractor shall comply with all applicable laws, ordinances, and obligations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. The Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the federal and state district courts of New Mexico, located in Santa Fe County.

22. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

23. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

24. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

25. LIMITATION OF LIABILITY

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2, "COMPENSATION AND INVOICING," of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

26. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq.

27. INSURANCE

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.
- C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.
- D. Increased Limits. If, during the life of this Agreement, the Legislature of the

State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

- E. Malpractice/Errors and Omissions Insurance. Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$1,000,000 per occurrence, \$2,000,000 per aggregate.

28. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

- A. It is a LLC duly organized and in good standing under the laws of California and registered to do business in New Mexico.
- B. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.
- C. This Agreement and the Contractor's obligations hereunder do not conflict with the Contractor's articles of incorporation or by-laws or any corporate resolution adopted by the Contractor.

29. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

30. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Legal Department
102 Grant Avenue / P.O. Box 276
Santa Fe, NM 87504-0276

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Renewable Funding, LLC
Attn: Mimi Frusha
1746 Broadway
Oakland, CA 94612

31. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS


The Contractor hereby irrevocably appoints CT Corporation System, 123 East Marcy, Santa Fe NM 87501, as its general agent for acceptance of services, and as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the state of New Mexico.

32. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNITY, RECORDS AND INSPECTION, RELEASE, CONFIDENTIALITY, LICENSE, COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW, NO THIRD-PARTY BENEFICIARIES, NEW MEXICO TORT CLAIMS ACT, INSURANCE, AND SURVIVAL.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SANTA FE COUNTY



Roman Abeyta,
Santa Fe County Manager



APPROVED AS TO FORM



Stephen C. Ross
Santa Fe County Attorney

3 March 2010

Date

FINANCE DEPARTMENT APPROVAL



Teresa C. Martinez
Santa Fe County Finance Director

3/9/10

Date

RENEWABLE FUNDING, LLC

(Signature)

Date

(Print name and title)

FEDERAL IDENTIFICATION NUMBER: 26-3007423

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SANTA FE COUNTY



Roman Abeyta,
Santa Fe County Manager



APPROVED AS TO FORM



Stephen C. Ross
Santa Fe County Attorney

3 March 2010

Date

FINANCE DEPARTMENT APPROVAL



Teresa C. Martinez
Santa Fe County Finance Director

3/9/10

Date

RENEWABLE FUNDING, LLC


(Signature)

3/16/10

Date

Katherine Frischa, COO

(Print name and title)

FEDERAL IDENTIFICATION NUMBER: 26-3007423

SANTA FE COUNTY, NEW MEXICO
ORDINANCE NO. 2009-12

APPROVING THE FORMATION OF THE SANTA FE COUNTY RENEWABLE ENERGY FINANCING DISTRICT PURSUANT TO THE RENEWABLE ENERGY FINANCING DISTRICT ACT, CHAPTER 180, LAWS OF NEW MEXICO 2009; MAKING FINDINGS IN CONNECTION WITH THE FORMATION OF THE DISTRICT; DETERMINING THE PURPOSES FOR WHICH THE DISTRICT IS BEING FORMED; APPROVING THE MANNER OF COLLECTION OF A RENEWABLE ENERGY IMPROVEMENT ASSESSMENT TO BE IMPOSED UPON REAL PROPERTY INCLUDED IN THE DISTRICT; APPROVING A FORM OF APPLICATION AND AGREEMENT BETWEEN THE COUNTY AND THE OWNERS OF REAL PROPERTY FOR INCLUSION OF REAL PROPERTY IN THE DISTRICT; PROVIDING FOR GOVERNANCE OF THE DISTRICT; PROVIDING FOR THE INCLUSION OF REAL PROPERTY WITHIN THE DISTRICT BY SUBSEQUENT RESOLUTIONS; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE

Capitalized terms in the following preambles shall have the meanings assigned in Section 1 of this Ordinance, unless the context clearly requires otherwise.

WHEREAS, the Renewable Energy Financing District Act (the "Act") provides in part that the governing body of a county may adopt an ordinance for the formation of a renewable energy financing district for the purpose of encouraging, accommodating and financing renewable energy improvements; and, upon determination that a district should be formed based on the interests, convenience or necessity of owners of property in the proposed district and the citizens of the municipality or county in which the proposed district would be located, the governing body of the county shall adopt an ordinance ordering that the renewable energy financing district be formed and identifying the method by which property owners can execute agreements to have their property included in the district; and

WHEREAS, the Act authorizes counties to enter into agreements to establish the obligations of the owners of real property included in the District and the County concerning the improvements and other matters relating to the use of the improvements within the District; and

WHEREAS, the Board of County Commissioners (the "Commission") of Santa Fe County (the "County") adopted County Resolution No. 2009-12 on [July 28], 2009 (the "Intent Resolution").

WHEREAS, the Intent Resolution sets forth application procedures for the inclusion of real property within the District, subject to enactment pursuant to this Ordinance approving the formation of the District; and

WHEREAS, the Commission has held a public hearing to consider formation of the District; and

SFC CLERK RECORDED 10/28/2009



WHEREAS, the Renewable Energy Improvements are to be permanently installed in accordance with applicable State and County standards including, without limitation, building permit requirements, which standards may be supplemented by Assessment Resolution; and

WHEREAS, the Renewable Energy Improvements will be financed by the Renewable Energy Improvement Assessment on the real property included in the District; and

WHEREAS, the Commission shall cause a copy of this Ordinance ordering formation of the District to be delivered to the County Assessor, the County Treasurer, the Taxation and Revenue Department of the State and the Local Government Division of the Department of Finance and Administration as required by the Act.

BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY, NEW MEXICO:

Section 1. Defined Terms. As used in this Ordinance, the following terms shall have the meanings specified, unless the context clearly requires otherwise (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"Act" means the Renewable Energy Financing District Act, Chapter 180, Laws of New Mexico 2009.

"Assessment Resolution" means a resolution of the District Board that includes real property in the District and imposes a Renewable Energy Improvement Assessment, which Assessment Resolution may include one or multiple parcels with separate ownership interests.

"Commission" means the Board of County Commissioners of the County.

"County" means Santa Fe County, New Mexico.

["Contractor" means the contractor hired by the County to perform duties related to the formation and operation of the District.]

"District" means the Santa Fe County Renewable Energy Financing District.

"District Board" means the governing body of the District.

"District Boundary Map" means the map attached as Exhibit "A" to the Ordinance.

"Intent Resolution" means County Resolution No. 2009-12 adopted on 7/28, 2009.

"Ordinance" means this ordinance adopted by the County in connection with its approval of the formation of the District.

"Renewable Energy Improvement Assessment" means a special assessment imposed as authorized by the Act and this Ordinance.

SFC CLERK RECORDED 10/28/2009

"Renewable Energy Improvements" means the renewable energy improvements, as provided in the Act, to be financed with the proceeds of the Renewable Energy Improvement Assessment imposed on each parcel of real property included in the District.

"State" means the State of New Mexico.

Section 2. Findings. The County hereby declares that it has considered all relevant information and data, and hereby makes the following findings:

A. The owners of the real property to be included in the District shall own 100% of the real property to be included in the District.

B. The Renewable Energy Improvements will be constructed to County specifications, and will be subject to inspection, approval and acceptance by the County.

C. The District will serve the interests, convenience and necessity of the owners of real property included in the District, future owners of parcels located within the District and the citizens of the County.

D. The cost of permanently installing the Renewable Energy Improvements will be allocated to the owners of real property included in the District via a Renewable Energy Improvement Assessment, and will not be passed on to the citizens of the County or the County itself.

E. The financing of the Renewable Energy Improvements is feasible and will not impose an undue burden on the future owners of real property located within the District.

F. The financing of the Renewable Energy Improvements will enable the District to construct those improvements in a cost-effective manner.

G. As planned, the Renewable Energy Improvements promote the County's goals and policies relating to the incorporation of renewable energy and energy efficient technologies.

H. The Commission has determined that proceeding with the formation of the District is consistent with the Intent Resolution and promotes the interests, convenience or necessity of the owners of real property to be included in the District; and

I. The Commission has determined that is in the best interests of the County and its citizens to form the District for the purpose of encouraging, accommodating and financing Renewable Energy Improvements; and

Section 3. Approval of Formation of District.

A. Formation of the District is hereby approved.

B. The District shall encompass the boundaries of the County subject to the addition of specific parcels pursuant to Assessment Resolutions.

SFC CLERK RECORDED 10/28/2009

C. [By Resolution, the incorporated municipalities of the City of Santa Fe and the Town of Edgewood have consented to inclusion within the District.]

D. The District is hereby ordered approved and formed to carry out the purposes set forth in, and according to the provisions of, this Ordinance and the Intent Resolution.

E. The purpose of the District shall be to encourage, accommodate and finance the Renewable Energy Improvements pursuant to the Act.

F. The District shall be self-supporting.

G. The District shall comply with existing County policies for development, growth management and conservation.

H. The officers, agents and employees of the County are hereby authorized and empowered to take all actions necessary and to execute and deliver all documents relating to or requested by the District to carry out and comply with the provisions of this Ordinance and the Intent Resolution.

Section 4. Determining Real Property to be Included in the District.

A. In order for real property to be considered for inclusion in the District, the recorded owner(s) of the real property shall complete one application for each parcel of real property to be considered for inclusion as described in the Intent Resolution. Following determination by County staff [or the Contractor] that the application is complete, the recorded owner(s) of the real property to be included in the District shall sign an agreement with the District Board agreeing to the terms of inclusion of the real property in the District and the imposition of the Renewable Energy Improvement Assessment in amounts necessary to pay the costs of permanently installing the approved renewable energy improvements and the costs of financing such improvements including the related administrative fees to the District. The costs of such improvements will be amortized over a period of time as determined by the District, or its Financial Advisor, which amortization schedule and Renewable Energy Improvement Assessment amount shall be acknowledged and approved by the owner prior to inclusion of the property. The District Board will approve the inclusion of each parcel of real property in the District pursuant to an Assessment Resolution or Assessment Resolutions.

B. The District shall deliver a copy of each Assessment Resolution to the County Assessor and the County Treasurer. A copy of each Assessment Resolution and a description of the real property included within the District shall be recorded with the County Clerk.

Section 5. Imposition of Renewable Energy Improvement Assessment.

A. Following the approval of inclusion of real property in the District, the District Board may impose a Renewable Energy Improvement Assessment on such real property sufficient to pay for the Renewable Energy Improvements, costs of bond issuance, if any, debt

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service, if any, and administrative costs of the District and the County as provided in the Intent Resolution.

B. Each owner of real property shall acknowledge and consent to the Renewable Energy Improvement Assessments amount and amortization schedule as a condition of inclusion of the real property in the District.

C. Following acknowledgement and consent by the owner of the real property to be included in the District and satisfaction of the other requirements of the Act, this Resolution and as may from time to time be made applicable by the Commission, the Board shall adopt an Assessment Resolution. An Assessment Resolution may include one or multiple parcels with separate ownership interests.

D. Renewable Energy Improvement Assessments shall be collected at the same time and in the same manner as property taxes are levied and collected; provided that the District Board may, in its discretion, establish alternative collection procedures. Renewable Energy Improvement Assessments may be prepaid pursuant to procedures established by the District Board and identified in Assessment Resolutions.

Section 6. Special Assessment Bonds. The District may issue one or more series of special assessment bonds [or enter into loan agreements] to provide funds for Renewable Energy Improvements by subsequent Ordinance or Resolution. Bonds shall be payable from Renewable Energy Improvement Assessments levied pursuant to the Assessment Resolutions adopted by the District Board. In the discretion of the District Board, the District may issue bonds secured by the Renewable Energy Improvement Assessments on multiple parcels within the District, or secured by the Renewable Energy Improvement Assessment on a single parcel within the District.

Section 7. District Governance.

A. The District Board shall initially be composed of the five members of the Commission.

B. The initial members of the District Board shall serve six-year terms.

C. Once the initial six-year terms expire, the initial members of the District Board must be replaced by elected directors.

D. The District Board shall hold a public meeting following the date of adoption of this Ordinance. At that meeting, the District Board shall adopt an open meetings policy and by-laws for the District.

Section 8. Amendments. This Ordinance may be amended or supplemented by ordinance or resolution adopted by the Commission in accordance with the laws of the County and the State.

Section 9. Repealer. All ordinances or resolutions, or parts thereof in conflict with the provisions of this Ordinance, are hereby repealed to the extent only of such inconsistency.

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This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 10. Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this Ordinance.

Section 11. Publication of Notice of Adoption of Ordinance. The County Clerk is hereby directed to publish a notice of this Ordinance, in substantially the following form:

Notice is hereby given of the title and general summary of the subject matter contained in an ordinance duly adopted and approved by the Board of County Commissioners of Santa Fe County, New Mexico relating to the approval of the Santa Fe County Renewable Energy Financing District. Complete copies of the ordinance are available for public inspection during the regular business hours of the County Clerk, Santa Fe County, New Mexico.

The title of the Ordinance is as follows:

ORDINANCE

APPROVING THE FORMATION OF THE SANTA FE COUNTY RENEWABLE ENERGY FINANCING DISTRICT PURSUANT TO THE RENEWABLE ENERGY FINANCING DISTRICT ACT, CHAPTER 180, LAWS OF NEW MEXICO 2009; MAKING FINDINGS IN CONNECTION WITH THE FORMATION OF THE DISTRICT; DETERMINING THE PURPOSES FOR WHICH THE DISTRICT IS BEING FORMED; APPROVING THE MANNER OF COLLECTION OF A RENEWABLE ENERGY IMPROVEMENT ASSESSMENT TO BE IMPOSED UPON REAL PROPERTY INCLUDED IN THE DISTRICT; APPROVING A FORM OF APPLICATION AND AGREEMENT BETWEEN THE COUNTY AND THE OWNERS OF REAL PROPERTY FOR INCLUSION OF REAL PROPERTY IN THE DISTRICT; PROVIDING FOR GOVERNANCE OF THE DISTRICT; PROVIDING FOR THE INCLUSION OF REAL PROPERTY WITHIN THE DISTRICT BY SUBSEQUENT RESOLUTIONS; RATIFYING CERTAIN ACTIONS HERETOFORE TAKEN; REPEALING ALL ACTIONS INCONSISTENT WITH THIS ORDINANCE

(End of Form of Summary of Ordinance for Publication)
(Remainder of Page Intentionally Left Blank)

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PASSED, ADOPTED AND APPROVED this 27 day of October, 2009.

BOARD OF COUNTY COMMISSIONERS
SANTA FE COUNTY, NEW MEXICO

By: [Signature]
Mike D. Anaya, Chairperson

ATTEST:

By: [Signature]
Valerie Espinoza, County Clerk



APPROVED AS TO FORM:

BY: [Signature]
Peter Franklin, as Bond Counsel



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
BCC ORDINANCE
PAGES: 12
I Hereby Certify That This Instrument Was Filed for
Record On The 28TH Day Of October, 2009 at 02:04:05 PM
And Was Duly Recorded as Instrument # 1581412
Of The Records Of Santa Fe County
Witness My Hand And Seal Of Office
Deputy [Signature] Valerie Espinoza
County Clerk, Santa Fe, NM

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Board Member Harry Montoya then seconded the adoption of the foregoing ordinance introduced by Board Member Kathy Holian.

The motion to adopt the ordinance upon being put to a vote was passed and adopted on the following recorded vote:

Those Voting Aye:

Harry Montoya
Kathy Holian
Liz Stefanics
Virginia Vigil

Those Voting Nay:

Four (4) members of the Board having voted in favor of the motion, the presiding officer declared the motion carried and the ordinance adopted, whereupon the Chairperson of the Board and County Clerk signed the foregoing proceedings and ordinance upon the records of the minutes of the Board.

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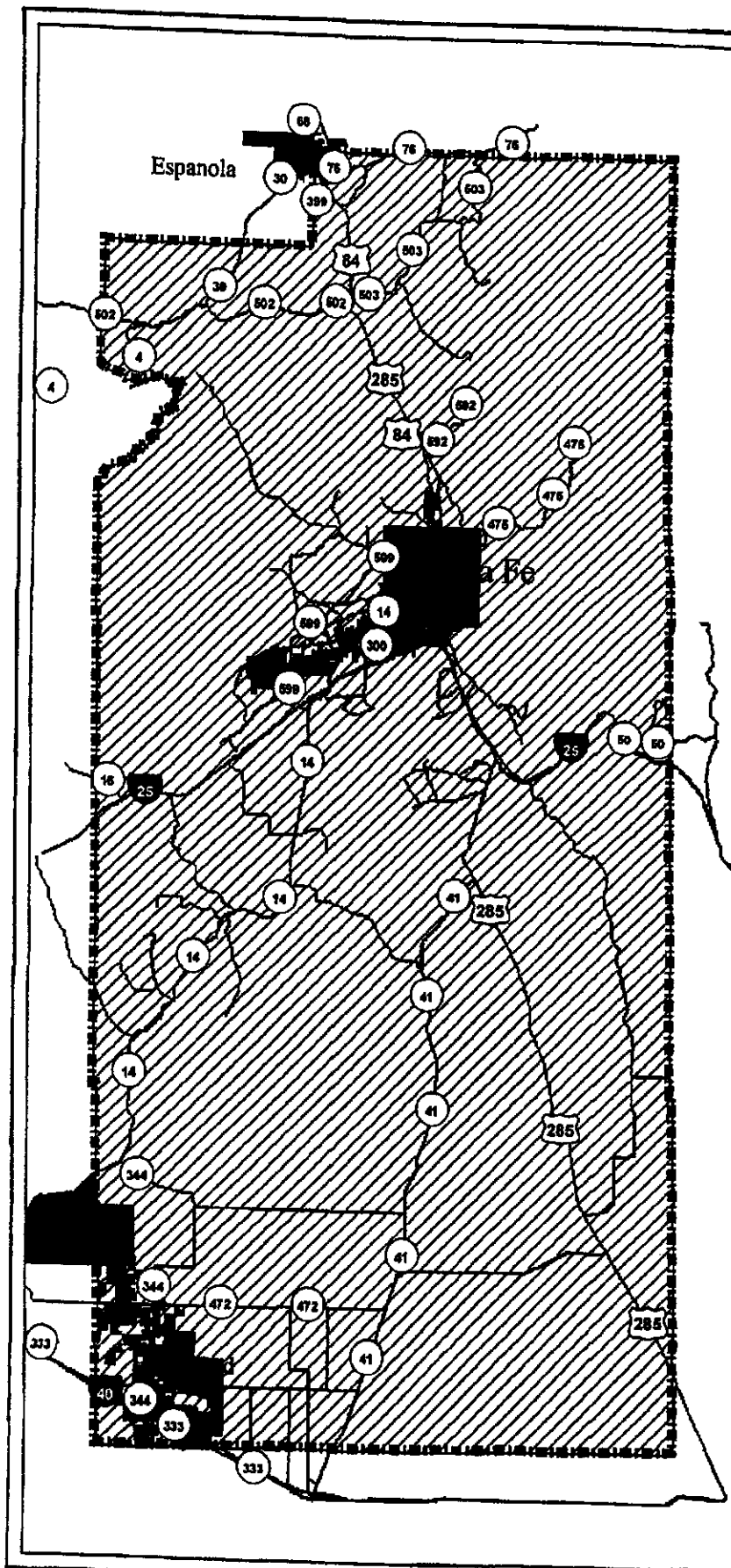
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EXHIBIT "A"

District Boundary Map

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Santa Fe County Renewable Energy Financing District

District Boundary Map

EXHIBIT "A" to
Ordinance No. 2009 - 12

Legend

- Exterior District Boundary
- Renewable Energy Financing District
- Municipalities (Not Included in District
and Can Opt Into District)
- Major Roads



5 2.5 0 5 Miles

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
Users are solely responsible for confirming
data accuracy when necessary.



Santa Fe County
Growth Management
Department
Planning Division

Oct. 27, 2009
renewable_energy_financing_district

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